

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE MARCH 12, 2014

SENATE BILL

No. 944

Introduced by Senator Torres

February 5, 2014

An act to amend ~~Sections~~ *Section 11011.1 and 11011.15* of, and to add *Section 11011.6* to, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 944, as amended, Torres. Surplus state property.

Existing law requires the Department of General Services to dispose of surplus state real property in a specified manner, including, but not limited to, prescribing the priority of disposition of the property before the department offers it for sale to private entities or individuals. Existing law declares that the provision of decent housing for all Californians is a state goal of the highest priority and that priority be given to the disposal of surplus state real property to housing for persons and families of low or moderate income.

This bill would add to those goals the creation of sustainable jobs and state the intent that priority be given to the disposal of surplus state real property to the development of projects that create sustainable employment opportunities of benefit to the area and region where the property is located when the property is suitable for those purposes. The bill would require the department, when disposing of surplus state real property, to give the same priority to a local agency that intends to use the property for the development of projects that create sustainable

employment opportunities of benefit to the area and region where the property is located, as to a local agency that intends to use the property for affordable housing projects.

The

This bill would, notwithstanding any other law, prohibit a local government from pre-zoning, zoning, or rezoning state real property within its jurisdiction that is declared surplus or identified as unused, underutilized, partially utilized, or excess, unless the Department of General Services requests that the property be rezoned or approves the rezoning. The the state real property known as Lanterman Developmental Center, located in Pomona, Los Angeles County, which has been declared to be surplus state real property, from being pre-zoned, zoned, or rezoned unless the Department of General Services requests that the property be rezoned or approves the rezoning of the property. This bill would also make technical, nonsubstantive changes to these provisions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Lanterman Development Center.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11011.1 of the Government Code is
2 amended to read:
3 11011.1. (a) Notwithstanding any other law, except Article
4 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of
5 Division 2 of Title 5, the disposal of surplus state real property by
6 the Department of General Services is subject to the requirements
7 of this section. For purposes of this section, “surplus state real
8 property” means real property declared surplus by the Legislature
9 and directed to be disposed of by the Department of General
10 Services, including any real property previously declared surplus
11 by the Legislature but not yet disposed of by the Department of
12 General Services prior to the enactment of this section.
13 (b) (1) The department may dispose of surplus state real
14 property by sale, lease, exchange, a sale combined with an
15 exchange, or other manner of disposition of property, as authorized
16 by the Legislature, upon any terms and conditions and subject to

1 any reservations and exceptions the department deems to be in the
2 best interests of the state.

3 (2) (A) The Legislature finds and declares that the provision
4 of decent housing for all Californians and the creation of
5 sustainable jobs are state goals of the highest priority. The disposal
6 of surplus state real property is a direct and substantial public
7 purpose of statewide concern and will serve an important public
8 purpose, including mitigating the environmental effects of state
9 activities. Therefore, it is the intent of the Legislature that priority
10 be given, as specified in this section, to the disposal of surplus
11 state real property to housing for persons and families of low or
12 moderate income, where land is suitable for housing and there is
13 a need for housing in the community, and to the development of
14 projects that create sustainable employment opportunities of benefit
15 to the area and region where the property is located when the
16 property is suitable for those purposes.

17 (B) Surplus state real property that has been determined by the
18 department not to be needed by any state agency shall be offered
19 to any local agency, as defined in subdivision (a) of Section 54221,
20 and then to nonprofit affordable housing sponsors, before being
21 offered for sale to private entities or individuals. As used in this
22 subdivision, “nonprofit affordable housing sponsor” means any
23 of the following:

24 (i) A nonprofit corporation incorporated pursuant to Division
25 2 (commencing with Section 5000) of Title 1 of the Corporations
26 Code.

27 (ii) A cooperative housing corporation which is a stock
28 cooperative, as defined by Section 11003.2 of the Business and
29 Professions Code.

30 (iii) A limited-dividend housing corporation.

31 (C) The department, subject to this section, shall maintain a list
32 of surplus state real property in a conspicuous place on its Internet
33 Web site. The department shall provide local agencies and, upon
34 request, members of the public, with electronic notification of
35 updates to the list of properties.

36 (D) To be considered as a potential priority buyer of the surplus
37 state real property, a local agency or nonprofit affordable housing
38 sponsor shall notify the department of its interest in the surplus
39 state real property within 90 days of the department posting on its
40 Internet Web site the notice of the availability of the surplus state

1 real property. The local agency or nonprofit affordable housing
2 sponsor shall demonstrate, to the satisfaction of the department,
3 that the surplus state real property, or portion of that surplus state
4 real property, is to be used by the local agency or nonprofit
5 affordable housing sponsor for open space, public parks, affordable
6 housing projects, development of projects that create sustainable
7 employment opportunities of benefit to the area and region where
8 the property is located, or development of local government-owned
9 facilities. If more than one local agency expresses an interest in
10 the surplus state real property, priority shall be given to the local
11 agency that intends to use the surplus state real property for
12 affordable housing or development of projects that create
13 sustainable employment opportunities of benefit to the area and
14 region where the property is located. If no agreement or transfer
15 of title occurs, the priority shall next be given to the local agency
16 that intends to use the surplus state real property for open space,
17 public parks, or development of local government-owned facilities.
18 The sales agreement shall be executed by the local agency or
19 nonprofit affordable housing sponsor within 60 days after the
20 director determines the local agency or nonprofit affordable
21 housing sponsor is to receive the surplus state real property. The
22 sale of the surplus state real property to a local agency or nonprofit
23 affordable housing sponsor pursuant to this section shall be
24 completed, and title transferred, within 60 days of the date the
25 department executes the sales agreement, or, if required by law,
26 no later than 60 days after the State Public Works Board has
27 authorized the sale. If the sale of a surplus state real property to a
28 local agency or nonprofit affordable housing sponsor is not
29 completed within the timeframe specified in this subparagraph,
30 then the department shall proceed with the process for disposal to
31 other private entities or individuals.

32 (c) (1) If more than one local agency desires the surplus state
33 real property for use as an open space, a public park, or the
34 development of a local government-owned facility, the department
35 shall transfer the surplus state real property to the local agency
36 offering the highest price above fair market value. If more than
37 one local agency desires the surplus state real property for use as
38 an affordable housing project, the department shall transfer the
39 surplus state real property to the local agency offering the greatest
40 number of affordable housing units. If more than one nonprofit

1 affordable housing sponsor desires the surplus state real property
2 for use as an affordable housing project, the department shall
3 transfer the surplus state real property to the nonprofit affordable
4 housing sponsor offering the greatest number of affordable housing
5 units.

6 (2) If no local agency or nonprofit affordable housing sponsor
7 is interested, or an agreement, as provided above, is not reached,
8 then the disposal of the surplus state real property to private entities
9 or individuals shall be pursuant to a public bidding process
10 designed to obtain the highest most certain return for the state from
11 a responsible bidder, and any transaction based on such a bidding
12 process shall be deemed to be the fair market value for the purposes
13 of the reporting requirements pursuant to subdivision (d).

14 (3) Notwithstanding any other law, the department may sell
15 surplus state real property, or a portion of surplus state real
16 property, to a local agency, or to a nonprofit affordable housing
17 sponsor if no local agency is interested in the surplus state real
18 property, for affordable housing projects at a sales price less than
19 fair market value if the department determines that such a discount
20 will enable the provision of housing for persons and families of
21 low or moderate income. Nothing shall preclude a local agency
22 that purchases the surplus state real property for affordable housing
23 from reconveying the surplus state real property to a nonprofit
24 affordable housing sponsor for development of affordable housing.
25 Transfer of title to the surplus state real property or lease of the
26 surplus state real property for affordable housing shall be
27 conditioned upon continued use of the surplus state real property
28 as housing for persons and families of low and moderate income
29 for at least 40 years and the department shall record a regulatory
30 agreement that imposes affordability covenants, conditions, and
31 restrictions on the surplus state real property. The regulatory
32 agreement shall be a first priority lien on the surplus state real
33 property and last for a period of at least 40 years, and if another
34 state agency is lending funds for a project, a combined regulatory
35 agreement shall be utilized. Notwithstanding any other provision
36 of law, the regulatory agreement shall not be subordinated to any
37 other lien or encumbrance except for any federal loan program the
38 statutes or regulations of which require a first priority lien for that
39 federal loan.

(4) Notwithstanding any other law, the Director of General Services may transfer surplus state real property to a local agency for less than fair market value if the local agency uses the surplus state real property for parks or open-space purposes. The deed or other instrument of transfer shall provide that the surplus state real property would revert to the state if the use changed to a use other than parks or open-space purposes during the period of 25 years after the transfer date. For the purpose of this paragraph, “open-space purposes” means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Thirty days prior to executing a transaction for a sale, lease, exchange, a sale combined with an exchange, or other manner of disposition of the surplus state real property for less than fair market value or for affordable housing, or as authorized by the Legislature, the Director of General Services shall report to the chairpersons of the fiscal committees of the Legislature all of the following:

(1) The financial terms of the transaction.

(2) A comparison of fair market value for the surplus state real property and the terms listed in paragraph (1).

(3) The basis for agreeing to terms and conditions other than fair market value.

(e) As to surplus state real property sold or exchanged pursuant to this section, the director shall except and reserve to the state all mineral deposits, as described in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. If, however, the director determines that there is little or no potential for mineral deposits, the reservation may be without surface right of entry above a depth of 500 feet, or the rights to prospect for, mine, and remove the deposits shall be limited to those areas of the surplus state real property conveyed that the director determines to be reasonably necessary for the removal of the deposits.

(f) The failure to comply with this section, except for subdivision (d), shall not invalidate the transfer or conveyance of surplus state real property to a purchaser for value.

(g) For purposes of this section, fair market value is established by an appraisal and economic evaluation conducted by the department or approved by the department.

1 ~~SEC. 2. Section 11011.15 of the Government Code is amended~~
2 ~~to read:~~

3 ~~11011.15. (a) The Department of General Services shall~~
4 ~~maintain a complete and accurate statewide inventory of all real~~
5 ~~property held by the state and categorize that inventory by agency~~
6 ~~and geographical location. The inventory shall include all~~
7 ~~information furnished by agencies pursuant to subdivision (b) and~~
8 ~~the University of California pursuant to Section 11011.17. The~~
9 ~~inventory shall be updated annually.~~

10 ~~(b) Each agency shall furnish the department, in the format~~
11 ~~specified by the department, a record of each parcel of real property~~
12 ~~that it possesses. Each agency shall update its real property~~
13 ~~holdings through December 31 of the previous year, reflecting any~~
14 ~~changes, by July 1 of each year. This record shall include, but is~~
15 ~~not limited to, all of the following information:~~

16 ~~(1) The location of the property within the state and the county,~~
17 ~~the size of the property, including its acreage, and any other~~
18 ~~relevant property data which the department deems necessary.~~
19 ~~This latter requirement shall be uniformly applied to all agencies.~~

20 ~~(2) The date of the acquisition of the real property, if available.~~

21 ~~(3) The manner in which the property was acquired and the~~
22 ~~purchase price, if available.~~

23 ~~(4) A detailed description of the current uses of the property,~~
24 ~~including specific programmatic uses, and whether the property~~
25 ~~is fully utilized, partially utilized, or excess, with regard to either~~
26 ~~an existing or ongoing program of the agency. The agency shall~~
27 ~~also provide a detailed description of every lease, license, or other~~
28 ~~agreement relating to the use of the property.~~

29 ~~(5) Any projected future uses of the property during the next~~
30 ~~five years, as identified pursuant to the five-year infrastructure~~
31 ~~plan or the agency's master plan. If the property is not included~~
32 ~~in the five-year infrastructure plan or the agency's master plan, or~~
33 ~~is identified as partially utilized or excess pursuant to paragraph~~
34 ~~(4), the agency shall provide detailed information regarding the~~
35 ~~need to continue ownership or management of the property. In the~~
36 ~~case of land held for state park use, for which the projected use~~
37 ~~would exceed a five-year period, the projected use and estimated~~
38 ~~date of construction or use shall be furnished.~~

39 ~~(6) A concise description of each major structure located on the~~
40 ~~property.~~

1 ~~(7) The estimated value of real property declared surplus by the~~
2 ~~agency and real property where the agency has not identified a~~
3 ~~current or potential use.~~

4 ~~(e) The department shall prepare a separate report and shall~~
5 ~~update the report annually of all properties declared surplus or~~
6 ~~properties with no identified current or projected use. The report~~
7 ~~shall be made available upon request.~~

8 ~~(d) The head of each agency shall also certify, on or before July~~
9 ~~1 annually, that the agency has accurately and completely reported~~
10 ~~all property information required by this section and that it has~~
11 ~~identified any excess property pursuant to Section 11011. The~~
12 ~~Department of General Services shall maintain the certification~~
13 ~~notices in a conspicuous place on its Internet Web site.~~

14 ~~(e) Notwithstanding any other law, a local government that has~~
15 ~~state real property within its jurisdiction that is declared surplus~~
16 ~~or identified as unused, underutilized, partially utilized, or excess~~
17 ~~pursuant to this section, or Section 11011, shall not prezone, zone,~~
18 ~~or rezone the property, unless the Department of General Services~~
19 ~~requests that the property be rezoned or approves the rezoning of~~
20 ~~the property.~~

21 ~~SEC. 2. Section 11011.6 is added to the Government Code, to~~
22 ~~read:~~

23 ~~11011.6. Notwithstanding any other law, the state real property~~
24 ~~known as Lanterman Developmental Center, located at 3530~~
25 ~~Pomona Boulevard in Pomona, Los Angeles County, which has~~
26 ~~been declared to be surplus state real property pursuant to Section~~
27 ~~11011, shall not be prezoned, zoned, or rezoned unless the~~
28 ~~Department of General Services requests that the property be~~
29 ~~rezoned or approves the rezoning of the property.~~

30 ~~SEC. 3. The Legislature finds and declares that a special law~~
31 ~~is necessary and that a general law cannot be made applicable~~
32 ~~within the meaning of Section 16 of Article IV of the California~~
33 ~~Constitution because of the unique circumstances applicable to~~
34 ~~the development of the Lanterman Developmental Center property~~
35 ~~and the need to ensure that the property is zoned in a manner that~~
36 ~~is consistent with the long term interests of the surrounding area~~
37 ~~and region.~~